

**Proposed Amendments to the Magistrates Ordinance (Cap. 227)  
in Marked-up Mode**

**Section 5AA Professional qualifications of permanent magistrates**

- (1) A person ~~shall be~~is eligible to be appointed as a permanent magistrate if the person—
- (a) ~~he~~is qualified to practise as a barrister, solicitor or advocate in a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters; and
  - (b) ~~since becoming so qualified, he has~~the required experience as specified in subsection (2).
- (2) ~~For subsection (1)(b), a person shall also be eligible to be appointed as a permanent magistrate if~~For subsection (1)(b), a person has the required experience if, for a period of or periods totalling not less than 5 years—
- (a) ~~since becoming so qualified as described in subsection (1)(a), the person~~—
    - (i) has practised as a barrister, solicitor or advocate in such a court;
    - (ii) has been a legal officer;
    - (iii) has been the Director of Legal Aid or a Deputy Director of Legal Aid, Assistant Director of Legal Aid or Legal Aid Officer, appointed in accordance with section 3 of the Legal Aid Ordinance (Cap. 91);
    - (iv) has been the Official Receiver or an Assistant Official Receiver (Legal), Assistant Principal Solicitor, Senior Solicitor or Solicitor, appointed in accordance with section 75 of the Bankruptcy Ordinance (Cap. 6); or
    - (v) has been the Director of Intellectual Property or a Deputy Director of Intellectual Property, Assistant Director of Intellectual Property, Assistant Principal Solicitor, Senior Solicitor or Solicitor, appointed in accordance with section 3 of the Director of Intellectual Property (Establishment) Ordinance (Cap. 412)-.; or
- ~~(2) Notwithstanding subsection (1), a person shall also be eligible to be appointed as a permanent magistrate if—~~
- (a) ~~he is qualified to practise as a barrister, solicitor or advocate in a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters; and~~
  - (b) whether before or since becoming ~~so~~so qualified, he as described in subsection (1)(a), the person ~~has for a period of or periods totalling not~~

~~less than 5 years~~ been a special magistrate appointed in accordance with section 5.

- (3) ~~For the purposes of~~In calculating the period of 5 years referred to in subsection ~~(1)(b2)~~—
- (a) periods of less than 5 years falling within any of the paragraphs or subparagraphs of that subsection may be combined;
  - (b) for the purposes of paragraph (a) of that subsection, periods served in an office specified in Part I of the First Schedule to the repealed Registrar General (Establishment) Ordinance (Cap. 100) may be taken into account notwithstanding the repeal of that Ordinance.

### **Section 5AB Professional qualifications of special magistrates**

- (1) A person ~~shall be~~is eligible to be appointed as a special magistrate if the person—
- (a) ~~he~~is qualified to practise as a barrister, solicitor or advocate in a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters; and
  - (b) ~~since becoming so qualified, he has~~the required experience as specified in subsection (2).
- (2) For subsection (1)(b), a person has the required experience if, for a period of or periods totalling not less than 5 years—
- (a) since becoming qualified as described in subsection (1)(a), the person—
- (i) has practised as a barrister, solicitor or advocate in such a court;
  - (ii) has been a legal officer;
  - (iii) has been the Director of Legal Aid or a Deputy Director of Legal Aid, Assistant Director of Legal Aid or Legal Aid Officer, appointed in accordance with section 3 of the Legal Aid Ordinance (Cap. 91);
  - (iv) has been the Official Receiver or an Assistant Official Receiver (Legal), Assistant Principal Solicitor, Senior Solicitor or Solicitor, appointed in accordance with section 75 of the Bankruptcy Ordinance (Cap. 6); or
  - (v) has been the Director of Intellectual Property or a Deputy Director of Intellectual Property, Assistant Director of Intellectual Property, Assistant Principal Solicitor, Senior Solicitor or Solicitor, appointed

in accordance with section 3 of the Director of Intellectual Property (Establishment) Ordinance (Cap. 412); or

- ~~(2) Notwithstanding subsection (1), a person shall also be eligible to be appointed as a special magistrate if—~~
- ~~(a) he is qualified to practise as a barrister, solicitor or advocate in a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters; and~~
  - (b) whether before or since becoming ~~so~~ qualified, he as described in subsection (1)(a), the person has ~~for a period of or periods totalling not less than 5 years~~ served in the grade of Court Prosecutor, Court Interpreter or Judicial Clerk in the Government.
- (3) ~~For the purposes of~~In calculating the period of 5 years referred to in subsection ~~(1)(b2)~~—
- (a) periods of less than 5 years falling within any of the paragraphs or subparagraphs of that subsection may be combined;
  - (b) for the purposes of paragraph (a) of that subsection, periods served in an office specified in Part I of the First Schedule to the repealed Registrar General (Establishment) Ordinance (Cap. 100) may be taken into account notwithstanding the repeal of that Ordinance.